

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of Michael Wayne Brown, et al. Serial No.: 09/895,932 Filed: 6/29/2001 Title: COORDINATING MANUFACTURING BY LOCAL AND REMOTE MANUFACTURERS FOR A PERSONALIZED DESIGN IN AN ELECTRONIC COMMERCE SYSTEM Atty Docket Number: AUS920010354US1	: Before the Examiner: LIVERSEDGE, JENNIFER  : Group Art Unit: 3628 : Amy J. Pattillo : P.O. Box 161327 : Austin, Tx 78716 : 512-402-9820
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**APPEAL BRIEF UNDER 37 CFR §41.37**

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This Appeal Brief is submitted in support of the Appeal in the above-referenced application pursuant to a Notice of Appeal filed July 16, 2007 as required by 37 C.F.R. 41.31. This is an appeal from a final rejection dated May 2, 2007 of Claims 1, 2, 4-6, 8-10, 12-14, 16-18, 20-22, 24, and 25 of application serial number 10/09/895,932, filed on June 29, 2001.

**I. Real Party in Interest**

The real party in interest in the present application is the Assignee, International Business Machines Corporation of Armonk, New York, as evidenced by the Assignment set forth at Reel 011988 and frame 0109.

## **II. Related Appeals and Interferences**

There are no Appeals or Interferences known to Appellant, Appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. No decisions have been rendered by a court or the Board in any related applications.

### **III. Status of Claims**

1. Status of All Claims in Application
  - a. Claims Rejected: 1, 2, 4-6, 8-10, 12-14, 16-18, 20-22, 24, and 25.
  - b. Claims Allowed or Confirmed: None.
  - c. Claims Withdrawn from Consideration: None.
  - d. Claims Objected to: None.
  - e. Claims Cancelled: 3, 7, 11, 15, 19, 23, and 26-35.
2. Claims on Appeal
  - a. The claims being appealed are: 1, 2, 4-6, 8-10, 12-14, 16-18, 20-22, 24, and 25.
  - b. The claims being appealed stand finally rejected as noted by the Examiner in the Examiner's Action dated May 2, 2007. These rejected claims, which form the basis of this appeal, are reproduced in the attached Appendix.

#### **IV. Status of Amendments**

The Examiner finally rejected claims 1, 2, 4-6, 8-10, 12-14, 16-18, 20-22, 24, and 25 in a final office action dated May 2, 2007.

In particular, the final office action dated May 2, 2007, the Examiner rejected claims 1, 2, 4-6, 8-10, 12-14, 16-18, 20-22, 24, and 25 under 35 USC §103(a) as being unpatentable over Crookshanks (US Patent 7,089,203) in view of an article by Robert Frank titled “Asian jewelers carry on tradition in Little Saigon, Clients prefer to design rings, merchants say.” [Final Office Action, p. 3] No amendments to claims 1, 2, 4-6, 8-10, 12-14, 16-18, 20-22, 24, and 25, which are on appeal, were made following the final office action dated May 2, 2007.

## **V. Summary of Claimed Subject Matter**

Claim 1 is directed to a method for coordinating multiple local and remote manufacturers for a manufacturing order. (Specification, paragraph 0033 and Figures 5A and 5B). At least one broker server facilitates user selection of a customized manufacturing order for a product to be manufactured, after placement of the customized manufacturing order, by a particular local manufacturer selected by the user from among multiple local manufacturers, wherein the local manufacturers locally distribute manufactured products to the user without shipping the manufactured products. (Specification, paragraphs 0047, 0049, 0050, and 0059-0066 and Figure 4, elements 54 and 68 and Figure 5A). The broker server divides the customized manufacturing order for the user into multiple manufacturable parts. (Specification, paragraphs 0056 and 0069 and Figure 5B, element 156). The broker server submits a local bid request for the manufacturing order to the local manufacturers. (Specification, paragraphs 0050, 0056, and 0069 and Figure 5B, element 158). The broker server receives at least one local bid for the manufacturing order from at least one of the local manufacturers specifying a selection of the manufacturable parts required to be manufactured by a remote manufacturer for at least one of the local manufacturers to produce the customized manufacturing order. (Specification, paragraphs 0069 and 0070 and Figure 5B, elements 160 and 162). The broker server submits a remote bid request to multiple remote manufacturers for the selection of the manufacturable parts as requested in the at least one local bid. (Specification, paragraphs 0057 and 0070 and Figure 5B, element 164). Responsive to the broker server receiving at least one remote bid for at least one of the selection of the manufacturable parts, the broker server compiles the at least one local bid and the at least one remote bid into multiple display options to enable the user to select the particular local manufacturer and to select at least one particular remote manufacturer from among the remote manufacturers to provide the selection of the manufacturable parts required by the particular local manufacturer. (Specification, paragraphs 0057, 0070 and 0071 and Figure 5B, elements 166, 168, and 170). Responsive to the broker server receiving a

selection by the user of the particular local manufacturer and the at least one particular remote manufacturer, controlling, by the broker server, placement of the customized manufacturing order with the particular local manufacturer and placement of at least one separate order with the at least one particular remote manufacturer for the selection from among the manufacturable parts required by the particular local manufacturer to produce the customized manufacturing order. (Specification, paragraphs 0058, 0071 and 0072 and Figure 5B, elements 172 and 176).

Claim 2 is directed to the method of claim 1 and is further directed to submitting the local bid request and the remote bid request from a broker server communicatively connected through a network to multiple manufacturer systems. (Specification, paragraph 0047 and Figure 3).

Claim 4 is directed to the method of claim 1 and is further directed to responsive to receiving a design request from a user, transmitting indicators of multiple available products to the user (Specification, paragraph 0059 and Figure 5A, element 124), responsive to receiving a product selection from among the available products, transmitting multiple available attributes to the user (Specification, paragraphs 0061 and 0063 and Figure 5A, elements 126 and 132, Figure 10, element 210), responsive to receiving an attribute selection from among the available attributes, transmitting multiple available variables to the user (Specification, paragraphs 0064 and 0065 and Figure 5A, elements 134 and 136), and responsive to receiving a variable selection from among the available variables, rendering a graphical representation of the customized manufacturing order according to the product selection, the attribute selection and the variable selection (Specification, paragraph 0066 and Figure 5A, elements 138 and 142).

Claim 5 is directed to the method of claim 4 and is further directed to calculating a cost estimate for the customized manufacturing order according to the product selection, the attribute selection and the variable selection. (Specification, paragraphs 0062 and 0066 and Figure 5A, elements 130 and 140).

Claim 6 is directed to the method of claim 1 and is further directed to analyzing the customized manufacturing order for integrity (Specification, paragraph 0068 and Figure 5A, element 150) and responsive to finding integrity flaws in the customized manufacturing order, providing the user with suggestions for adjusting the customized manufacturing order. (Specification, paragraph 0068 and Figure 5A, elements 152 and 154).

Claim 8 is directed to the method of claim 1 and is further directed to receiving a selection from the user from among the local bids and the remote bids (Specification, paragraph 0071 and Figure 5B, element 172) and transferring an order request for the manufacturing order according to the selection from among the local bids and the remote bids. (Specification, paragraph 0072 and Figure 5B, element 176).

Claim 9 is directed to the method of claim 8 and is further directed to completing a financial settlement from the user for the order request. (Specification, paragraphs 0058, 0071 and 0072 and Figure 5B, element 174).

Claims 10, 12, 13, 14, 16, and 17 are directed to a server system communicatively connected to a network (Specification, paragraphs 0040, 0041, and 0047, and Figures 1 and 3) having means for coordinating manufacturing by local and remote manufacturers for a personalized design as described by the steps in claims 1, 4, 5, 6, 8, and 9 respectively. (Specification, paragraphs 0033, 0038, and 0047-0058 and Figures 3 and 4).

Claims 18, 20, 21, 22, 24, and 25 are directed to a computer program product, on a nonvolatile or volatile recording medium, having program means recorded thereon for coordinating manufacturing by local and remote manufacturers for a personalized design as described by the steps in claims 1, 4, 5, 6, 8, and 9, respectively. (Specification, paragraphs 0033, 0039, and 0040).



**VI. Grounds of Rejection to be Reviewed on Appeal**

1. Claims 1, 3, 6-9, 11, 14-17, 19, and 22-24 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Crookshanks (US Patent 7,089,203) in view of Robert Franks article “Asian Jewelers Carry on Tradition in Little Saigon, Clients prefer to design rings, merchants say” (herein referred to as Frank).

## **VII. Argument**

### **1. 35 U.S.C. 103(a), Alleged Obviousness under Crookshanks in view of Frank, Claims 1-2, 4-6, 8-10, 12-14, 16-18, 20-22, and 24-25.**

The Final Office Action rejects claims 1-2, 4-6, 8-10, 12-14, 16-18, 20-22, and 24-25 under 35 U.S.C. §103(a) as being allegedly unpatentable over Crookshanks in view of Franks. [Final Office Action, p. 3] 35 U.S.C. §103(a) states that “a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” Appellants traverse the rejection of the claims as not obvious under 35 U.S.C. §103(a). In addition, Appellants respectfully assert that the claims do not all stand or fall together.

### **Claims 1, 10, and 18**

Claim 1, which is representative of claims 10 and 18 reads:

1. A method for coordinating a plurality of local and remote manufacturers for a manufacturing order, said method comprising the steps of:
  - facilitating, by at least one broker server, user selection of a customized manufacturing order for a product to be manufactured, after placement of said customized manufacturing order, by a particular local manufacturer selected by said user from among a plurality of local manufacturers, wherein said plurality of local manufacturers locally distribute manufactured products to said user without shipping said manufactured products;
  - dividing, by said broker server, said customized manufacturing order for said user into a plurality of manufacturable parts;
  - submitting, by said broker server, a local bid request for said manufacturing order to said plurality of local manufacturers;
  - receiving, by said broker server, at least one local bid for said manufacturing order from at least one of said plurality of local manufacturers specifying a selection of said plurality of manufacturable parts required to be manufactured by a remote

manufacturer for said at least one of said plurality of local manufacturers to produce said customized manufacturing order;  
submitting, by said broker server, a remote bid request to a plurality of remote manufacturers for said selection of said plurality of manufacturable parts as requested in said at least one local bids;  
responsive to said broker server receiving at least one remote bid for at least one of said selection of said plurality of manufacturable parts, compiling, by said broker server, said at least one local bid and said at least one remote bid into a plurality of display options to enable said user to select said particular local manufacturer and to select at least one particular remote manufacturer from among said plurality of remote manufacturers to provide said selection of said plurality of manufacturable parts required by said particular local manufacturer; and  
responsive to said broker server receiving a selection by said user of said particular local manufacturer and said at least one particular remote manufacturer, controlling, by said broker server, placement of said customized manufacturing order with said particular local manufacturer and placement of at least one separate order with said at least one particular remote manufacturer for said selection from among said plurality of manufacturable parts required by said particular local manufacturer to produce said customized manufacturing order.

As noted in the Final Office Action under 35 USC §103(a) a patent may not be obtained though the invention is not identically disclosed as described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. In *Graham v. John Deere*, the Supreme Court clarified that “under 103, in considering the obviousness or nonobviousness of the subject matter, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved, in addition to evaluating evidence of secondary considerations.” *Graham*, 383 U.S. 1, 148 USPQ 459 (1966).

The Examiner bears the initial burden of supporting any prima facie conclusion of obviousness. MPEP 2142. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some

suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Appellant's disclosure. *In re Vaeck*, 947, F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As to the Examiner's burden of proving a prima facie case of obviousness, Appellants respectfully assert that the Final Office Action fails to prove a prima facie case of obviousness under *Crookshanks* in view of Frank as to claims 1, 10, and 18 and therefore the claims should be allowed. In particular, Appellants respectfully assert that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify *Crookshanks*, to modify Frank, or to combine *Crookshanks* with Frank to teach each and every element of claims 1, 10, and 18. In addition, Appellants respectfully assert that *Crookshanks* and Frank, separately or in combination, do not teach or suggest all the claim limitations of claims 1, 10, and 18.

First, Appellants provide a summary of the description in *Crookshanks*. *Crookshanks* describes "a system an method for topologically subdividing and defining the detail scope of work and for inter-linking construction plans and specifications to constructions contracts and subcontracts." *Crookshanks*, abstract. *Crookshanks* takes the traditional bidding process for building construction with contractors and subcontractors and implements the process in an internet-based system. *Crookshanks*, col. 3, lines 15-21. The Bid system of *Crookshanks* establishes a series of "overlays" to the construction plans, in which each overlay corresponds to a different trade or bidding category of work. *Crookshanks*, col. 3, lines 22-32. The system links the overlays for generating contracts and subcontracts so that the bid under contract is mapped to the

corresponding subdivisions and regions of the construction plans. *Crookshanks*, col. 3, lines 32-41.

Next, Appellants provide a summary of the rejection of claims 1, 10, and 18 in view of *Crookshanks* and *Frank*. Appellants note that in applying 35 USC §103(a), the references as a whole must be considered and therefore in addition to the portions of *Crookshanks* cited by the Examiner, Appellants cite and summarize additional portions of *Crookshanks* which should be considered in order to consider *Crookshanks* as a whole. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

The Final Office Action cites *Crookshanks*, col. 21, line 65-col. 22, line 2; col. 23, lines 7-14; and col. 27, line 48-col. 28, line 3 as reading on the element of facilitating, by at least one broker server, user selection of a customized manufacturing order for a product to be manufactured, after placement of said customized manufacturing order, by a particular local manufacturer selected by said user from among a plurality of local manufacturers, wherein said plurality of local manufacturers locally distribute manufactured products to said user without shipping said manufactured products. [Final Office Action, p. 3] The cited portions of *Crookshanks* describe that an owner/developer enters a contract specification with the bid server and the bid server sends the bids to contractors, who obtain subcontractor bids and present a complete bid to the owner/developer. *Crookshanks*, col. 21, line 65-col. 22, line 2; col. 23, lines 7-14; and col. 27, line 48-col. 28, line 3.

The Final Office Act cites *Crookshanks* cites col. 26, lines 9-11, col. 16, lines 57-66, and col. 28, lines 47-67 as reading on the element of receiving, by said broker server, at least one local bid for said manufacturing order from at least one of said plurality of local manufacturers specifying a selection of said plurality of manufacturable parts required to be manufactured by a remote manufacturer for said at least one of said plurality of local manufacturers to produce said customized manufacturing order. [Final Office Action, p. 4] The cited portions of *Crookshanks* describe that requested contractors receive emails requesting bids. The contractors can then retrieve bid packets from the bid

server describing the project and the contractors request which subcontractors should receive bid requests. *Crookshanks*, col. 26, lines 9-11, col. 16, lines 57-66, and col. 28, lines 47-67. In addition, col. 28, line 67-col. 29, line 30 of *Crookshanks*, not cited by the Examiner, specifies that the subcontractor receives the bid request and retrieves the bid package from the bid server. The subcontractor reviews and signs a bid, which is saved by the bid system. *Crookshanks*, col. 28, line 67-col. 29, line 30. Specifically, *Crookshanks* describes that “typically each contractor has its preferred set of sub-contractors but some subs may work for a number of contractors, and correspondingly, some contractors may request bids from more than one sub-contractor on a particular deliverable object.” *Crookshanks*, col. 28, line 67-col. 29, line 30. In addition, *Crookshanks* col. 29, lines 17-31 describes that contractors review sub-contractor bids, approves selected sub-contractor bids, and posts a completed bid package through the bid server which is accessible by the owners/developers. The owners/developers then select which bid package, from which contractor, to select. *Crookshanks* col. 29, lines 17-31.

In addition, as to responsive to said broker server receiving at least one remote bid for at least one of said selection of said plurality of manufacturable parts, compiling, by said broker server, said at least one local bid and said at least one remote bid into a plurality of display options to enable said user to select said particular local manufacturer and responsive to the broker server receiving a selection by the user of said particular local manufacturer, controlling, by the broker server, placement of said customized manufacturing order with said particular local manufacturer, the Examiner does cite *Crookshanks*, col. 29, lines 17-31, as previously summarized. [Final Office Action, p. 5]

The Final Office Action cites *Crookshanks* as reading on all the elements of claims 1, 10, and 18 except for wherein said plurality of local manufacturers locally distribute manufactured products to said user without shipping said manufactured products, selecting at least one particular remote manufacturer from among said plurality of remote manufacturers to provide said selection of said plurality of manufacturable parts required by said particular local

manufacturer, or based on selection of a remote manufacturer, placement of a customized manufacturing order with a remote manufacturer. [Final Office Action, pp. 4-5] The Final Office Action states that Frank discloses these elements on page 2. [Final Office Action, p. 5] Page 2 of Frank describes local jewelry shops in a mall where customers can speak directly to skilled craftsmen who create customized jewelry. Page 2 of Frank describes that a customer may purchase a diamond at one store and then bring the diamond to another store to have the diamond set in a gold ring purchased at another store or in a customized ring; customers will sit and monitor the jeweler set diamonds in rings.

The Final Office action concludes that

“it would be obvious to one of ordinary skill in the art to adapt the selection of remote manufacturers for assembly of a customized product at a local manufacturer where a customer is able to watch the assembly of components received from remote manufacturers as disclosed by Frank with the compilation of bids from remote and local suppliers supplied to a broker server as disclosed by Crookshanks. The motivation would be for a user to take advantage of reviewing all of the submitted and system-stored bids in order to receive the components of the user’s choosing rather than the components of the local manufacturer’s choosing and for the user to help monitor costs.” [Final Office Action, pp. 5-6]

First, Appellants respectfully assert that a prima facie case of obviousness is not established as to claims 1, 10, and 18 because that there is no motivation or suggestion, either in the references or in the knowledge generally available to one of ordinary skill in the art, to modify Frank by Crookshanks or Crookshanks by Frank as proposed. When Frank and Crookshanks are considered as a whole, Frank teaches away from a modification which would automate the ring purchasing process of Frank and therefore (1) neither Crookshanks nor Frank suggests the desirability of the modification, and (2) the proposed modification would render Frank’s available storefronts for a user to in-person, select from the seller, each part of a ring, unsatisfactory for its intended purposes. Appellants note that in establishing a prima facie case of obviousness and satisfying the requirement that there is motivation or suggestion to modify the references to teach the claimed invention, (1) the mere fact that references can be combined

or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination, and (2) if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990), *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). In applying 35 USC §103(a), a prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Appellants submit that the Final Office Action requires Frank's local manufacturer, who combines a diamond (a part that Frank specifies the user would purchase in person from a diamond supplier) into a local part while the user waits and watches to be modified to implement a bid server system, based on Crookshanks, for enabling a person, via a computer system, to place a bid for the entire ring with a bid server, where the bid server then acquires bids from the local jeweler and submits bids to remote jewelers, allows the user to select from the local manufacturer and the remote manufacturer online, and automatically places the orders with each of the local manufacturer for the completed ring and with the remote manufacturer for the diamond.

When Frank is considered in its entirety, Frank claims that the reason for there being so many jewelry stores is that in Vietnamese or Chinese culture, it is not only tradition, but it is an expected part of business that purchasers shop in person for individual jewels, then in person for the ring, and then in person for the jeweler to set the jewels in the ring, establishing a level of trust with each of the sellers and jewelers from meeting each shop owner or jeweler in person. *Frank*, pages 1 and 2. The Examiner suggests that the motivation for combination of Frank and Crookshank would be so that the user can take advantage of reviewing all of the submitted and system-stored bids in order to receive the components of the user's choosing rather than the components of the local manufacturer's choosing and for the user to help monitor costs. [Final Office



Action, p. 6] Frank, however, describes that the current system of a user purchasing a diamond from one seller, and a ring from another jeweler, and then sitting and watching as another jeweler places the stone “enables customers to monitor purchases during every creative step” and puts the customer in control of purchasing every part. *Frank*, page 2.

Thus, not only does Frank not suggest modification to purchase parts by automated bidding, but Frank teaches away from such a system, as it would actually take away from the customer viewing the products before receiving bids in person, placing an order for each part of the product in person, and meeting each jeweler or dealer in person. Therefore, because Frank teaches away from any automated, not in person, purchasing of any portion of a ring, it is clear that (1) neither Frank nor the knowledge generally available to one of ordinary skill in the art suggests the desirability of the combination of Frank and Crookshank to teach automating the ring purchasing process of Frank, and (2) the proposed modification of Frank would render Frank’s description of purchasing each portion of a ring separately, in person, to be able to separately establish trust with each of the ring seller, the diamond seller, and the diamond placer, unsatisfactory for its intended purposes. In conclusion, because there is no suggestion or motivation to modify Frank to facilitate customer purchases by automated bidding there is no suggestion or motivation in the references or any stated knowledge generally available to one of ordinary skill in the art, to modify Frank by Crookshank’s automated construction bidding system. As a result of a the lack of suggestion or motivation to modify Frank by Crookshanks, a prima facie case of obviousness is not established as to claims 1, 10, and 18, the rejection under 35 USC §103(a) should be withdrawn and the claims should be allowed.

Second, Appellants respectfully assert that a prima facie case of obviousness is not established as to claims 1, 10, and 18 because Crookshanks and Frank, separately or in combination, do not teach or suggest the element of responsive to said broker server receiving a selection by said user of said particular local manufacturer and said at least one particular remote

manufacturer, controlling, by said broker server, placement of said customized manufacturing order with said particular local manufacturer and placement of at least one separate order with said at least one particular remote manufacturer for said selection from among said plurality of manufacturable parts required by said particular local manufacturer to produce said customized manufacturing order. In establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). Appellants note that the Final Office Action cites Crookshanks as reading on the elements of claims 1, 10, and 18, other than the elements of “selecting at least one particular remote manufacturer from among said plurality of remote manufacturers to provide said selection of said plurality of manufacturable parts required by said particular local manufacturer”, or “based on selection of a remote manufacturer, placement of a customized manufacturing order with a remote manufacturer.” The Final Office Action cites Frank alone as reading on these elements in page 2 of Frank. [Final Office Action, p. 5] The Final Office Action states that “it would be obvious to one of ordinary skill in the art to adapt the selection of remote manufacturers for assembly of a customized product at a local manufacturer where a customer is able to watch the assembly of components received from remote manufacturers as disclosed by Frank.” [Final Office Action, p. 5]

Appellants respectfully submit that it would not be “obvious to one of ordinary skill in the art to adapt the selection of remote manufacturers” in Frank because there is no remote manufacturer in Frank. Nor does Frank teach any user selection of a remote manufacturer that triggers placement of a manufacturing order with that remote manufacturer. In Frank, the user purchases each piece or part in person, not remotely, and brings each piece, in person, to a jeweler to assemble. *Frank*, pages 1 and 2. Even if one of the pieces is manufactured remotely, Frank does not teach or suggest that based on a customer selection of pieces that the customer brings to a jeweler for assembly, there is any placement of a manufacturing order with the remote manufacturer. In particular, Frank describes that the customer can ask the

jeweler to set the diamond in their own purchased ring or design a ring to their own tastes. *Frank*, pages 1 and 2. There is no indication in *Frank* that the jeweler has to order out for the customized ring; the article describes how the jeweler who sets the ring, also trains in forming and soldering rings. *Frank*, page 1.

In addition, no portion of *Crookshanks* teaches any user selection of a remote manufacturer that triggers placement of a manufacturing order with that remote manufacturer. As previously noted, *Crookshanks* describes the consumer requesting a bid package from contractors and a consumer receiving a bid package from the contractors, where the contractors receive subcontractor bids and place them in the package. *Crookshanks*, col. 28, line 67-col. 29, line 30. No portion of *Crookshanks* teaches a user selection from among subcontractors or of any particular subcontractor.

Therefore, Appellants respectfully assert that because *Frank* does not teach or suggest either “based on selection of a remote manufacturer, placement of a customized manufacturing order with a remote manufacturer” or “a selection of remote manufacturers” that can be adapted and combined with *Crookshanks* there is no selection of remote manufacturers in *Frank* to adapt and combine with *Crookshanks* and there is no portion of *Crookshanks* that teaches the element of responsive to said broker server receiving a selection by said user of said particular local manufacturer and said at least one particular remote manufacturer, controlling, by said broker server, placement of said customized manufacturing order with said particular local manufacturer and placement of at least one separate order with said at least one particular remote manufacturer for said selection from among said plurality of manufacturable parts required by said particular local manufacturer to produce said customized manufacturing order. Because *Frank* and *Crookshanks*, separately or in combination do not teach each and every element of responsive to said broker server receiving a selection by said user of said particular local manufacturer and said at least one particular remote manufacturer, controlling, by said broker server, placement of said customized manufacturing order with said particular local manufacturer and

placement of at least one separate order with said at least one particular remote manufacturer for said selection from among said plurality of manufacturable parts required by said particular local manufacturer to produce said customized manufacturing order, the Final Office Action fails to establish a prima facie case of obviousness as to claims 1, 10, and 18, the rejection of claims 1, 10, and 18 under 35 USC §103(a) should be withdrawn, and the claims should be allowed.

**Claims 2, 4-6, 8-9, 12-14, 16-17, 20-22, 24, and 25**

Appellants respectfully submit that because claims 2, 4-6, 8-9, 12-14, 16-17, 20-22, 24, and 25 are dependent upon claims 1, 10, and 18, for which the Examiner has not proved a prima facie case of obviousness, a prima facie case of obviousness is also not established with reference to claims 2, 4-6, 8-9, 12-14, 16-17, 20-22, 24, and 25.

**CONCLUSION**

It is therefore respectfully requested that the Examiner's rejection of claims 1-27 under 35 U.S.C. §103(a) be reversed and the claims allowed.

Please charge the fee of \$500.00 for submission of an Appeal Brief under 37 CFR 41.20(b)(2) to IBM Corporation Deposit Account No. 09-0447. No additional filing fee is believed to be necessary; however, in the event that any additional fee is required, please charge it to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,  
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### **VIII. Claims Appendix**

The Claims involved in the Appeal are as follows:

1. A method for coordinating a plurality of local and remote manufacturers for a manufacturing order, said method comprising the steps of:

facilitating, by at least one broker server, user selection of a customized manufacturing order for a product to be manufactured, after placement of said customized manufacturing order, by a particular local manufacturer selected by said user from among a plurality of local manufacturers, wherein said plurality of local manufacturers locally distribute manufactured products to said user without shipping said manufactured products;

dividing, by said broker server, said customized manufacturing order for said user into a plurality of manufacturable parts;

submitting, by said broker server, a local bid request for said manufacturing order to said plurality of local manufacturers;

receiving, by said broker server, at least one local bid for said manufacturing order from at least one of said plurality of local manufacturers specifying a selection of said plurality of manufacturable parts required to be manufactured by a remote manufacturer for said at least one of said plurality of local manufacturers to produce said customized manufacturing order;

submitting, by said broker server, a remote bid request to a plurality of remote manufacturers for said selection of said plurality of manufacturable parts as requested in said at least one local bids;

responsive to said broker server receiving at least one remote bid for at least one of said selection of said plurality of manufacturable parts, compiling, by said broker server, said at least one local bid and said at least one remote bid into a plurality of display options to enable said user to select said particular local manufacturer and to select at least one particular remote manufacturer from among said plurality of remote manufacturers to provide said selection of said plurality of manufacturable parts required by said particular local manufacturer;

and

responsive to said broker server receiving a selection by said user of said particular local manufacturer and said at least one particular remote manufacturer, controlling, by said broker server, placement of said customized manufacturing order with said particular local manufacturer and placement of at least one separate order with said at least one particular remote manufacturer for said selection from among said plurality of manufacturable parts required by said particular local manufacturer to produce said customized manufacturing order.

2. The method for coordinating a plurality of local and remote manufacturers according to claim 1, said method further comprising the step of:

submitting said local bid request and said remote bid request from a broker server communicatively connected through a network to a plurality of manufacturer systems.

4. The method for coordinating a plurality of local and remote manufacturers according to claim 1, said method further comprising the steps of:

in response to receiving a design request from a user, transmitting a plurality of available products to said user;

in response to receiving a product selection from among said plurality of available products, transmitting a plurality of available attributes to said user;

in response to receiving an attribute selection from among said plurality of available attributes, transmitting a plurality of available variables to said user; and

in response to a receiving a variable selection from among said plurality of available variables, rendering a graphical representation of said customized

manufacturing order according to said product selection, said attribute selection and said variable selection.

5. The method for coordinating a plurality of local and remote manufacturers according to claim 4, said method further comprising the step of:

calculating a cost estimate for said customized manufacturing order according to said product selection, said attribute selection and said variable selection.

6. The method for coordinating a plurality of local and remote manufacturers according to claim 1, said method further comprising the steps of:

analyzing said customized manufacturing order for integrity; and

in response to finding integrity flaws in said customized manufacturing order, providing said user with suggestions for adjusting said customized manufacturing order.

8. The method for coordinating a plurality of local and remote manufacturers according to claim 1, said method further comprising the steps of:

receiving a selection from said user from among said plurality of local bids and said plurality of remote bids;

transferring an order request for said manufacturing order according to said selection from among said plurality of local bids and said plurality of remote bids.

9. The method for coordinating a plurality of local and remote manufacturers according to claim 8, said method further comprising the step of:

completing a financial settlement from said user for said order request.



10. A system for coordinating a plurality of local and remote manufacturers for a manufacturing order, said system comprising:

a server system communicatively connected via a network to a plurality of local manufacturers and a plurality of remote manufacturers;

said server system further comprising:

means for facilitating user selection of a customized manufacturing order for a product to be manufactured, after placement of said customized manufacturing order, by a particular local manufacturer selected by said user from among said plurality of local manufacturers, wherein said plurality of local manufacturers locally distribute manufactured products to said user without shipping said manufactured products;

means for dividing said customized manufacturing order for said user into a plurality of manufacturable parts;

means for submitting a local bid request from said server system for said manufacturing order to said plurality of local manufacturers; and

means for receiving at least one local bid for said manufacturing order from at least one of said plurality of local manufacturers specifying a selection of said plurality of manufacturable parts required to be manufactured by a remote manufacturer for said at least one of said plurality of local manufacturers to produce said customized manufacturing order;

means for submitting a remote bid request from said server system to a plurality of remote manufacturers for said selection of said plurality of manufacturable parts as requested in said at least one local bids, in response to receiving a plurality of local bids for said manufacturing order at said server system.

means, responsive to said broker server receiving at least one remote bid for at least one of said selection of said plurality of manufacturable parts, for compiling said at least one local bid and said at least one remote bid into a plurality of display options to enable said user to select said particular local manufacturer and to select at least one particular remote manufacturer from among said plurality of remote manufacturers to provide said selection of said plurality of manufacturable parts required by said particular local manufacturer; and

means, responsive to said broker server receiving a selection by said user of said particular local manufacturer and said at least one particular remote manufacturer, for controlling placement of said customized manufacturing order with said particular local manufacturer and placement of at least one separate order with said at least one particular remote manufacturer for said selection from among said plurality of manufacturable parts required by said particular local manufacturer to produce said customized manufacturing order.

12. The system for coordinating a plurality of local and remote manufacturers according to claim 10, said system further comprising:

means for transmitting a plurality of available products to said user from said server system, in response to receiving a design request from a user;

means for transmitting a plurality of available attributes to said user from said server system, in response to receiving a product selection from among said plurality of available products;

means for transmitting a plurality of available variables to said user from said server system, in response to receiving an attribute selection from among said plurality of available attributes; and

means for rendering a graphical representation of said customized manufacturing order according to said product selection from said server system, said attribute selection and said variable selection, in response to a receiving a variable selection from among said plurality of available variables.

13. The system for coordinating a plurality of local and remote manufacturers according to claim 12, said system further comprising:

means for calculating a cost estimate for said customized manufacturing order according to said product selection, said attribute selection and said variable selection.

14. The system for coordinating a plurality of local and remote manufacturers according to claim 10, said system further comprising:

means for analyzing said customized manufacturing order for integrity;  
and

means for providing said user with suggestions for adjusting said customized manufacturing order, in response to finding integrity flaws in said personalized design.

16. The system for coordinating a plurality of local and remote manufacturers according to claim 10, said system further comprising:

means for receiving a selection from said user from among said plurality of local bids and said plurality of remote bids at said server system;

means for transferring an order request from said server system for said manufacturing order according to said selection from among said plurality of local bids and said plurality of remote bids.

17. The system for coordinating a plurality of local and remote manufacturers according to claim 16, said system further comprising:

means for completing a financial settlement from said user for said order request.

18. A program for coordinating a plurality of local and remote manufacturers for a manufacturing order, residing on a computer usable medium having computer readable program code means, said program comprising:

means for facilitating user selection of a customized manufacturing order for a product to be manufactured, after placement of said customized manufacturing order, by a particular local manufacturer selected by said user from among a plurality of local manufacturers, wherein said plurality of local manufacturers locally distribute manufactured products to said user without shipping said manufactured products;

means for dividing said customized manufacturing order for said user into a plurality of manufacturable parts;

means for transmitting a local bid request for said manufacturing order to said plurality of local manufacturers;

means for receiving at least one local bid for said manufacturing order from at least one of said plurality of local manufacturers specifying a selection of said plurality of manufacturable parts required [[for]] to be manufactured by a remote manufacturer for said at least one of said plurality of local manufacturers to produce said customized manufacturing order;

means for transmitting a remote bid request to a plurality of remote manufacturers for said selection of said plurality of manufacturable parts as requested in said at least one local bids.

means, responsive to said broker server receiving at least one remote bid for at least one of said selection of said plurality of manufacturable parts, for compiling said at least one local bid and said at least one remote bid into a plurality of display options to enable said user to select said particular local manufacturer and to select at least one particular remote manufacturer from among said plurality of remote manufacturers to provide said selection of said plurality of manufacturable parts required by said particular local manufacturer; and

means, responsive to said broker server receiving a selection by said user of said particular local manufacturer and said at least one particular remote manufacturer, for controlling placement of said customized manufacturing order with said particular local manufacturer and placement of at least one separate order with said at least one particular remote manufacturer for said selection from among said plurality of manufacturable parts required by said particular local manufacturer to produce said customized manufacturing order.

20. The program for coordinating a plurality of local and remote manufacturers according to claim 18, said program further comprising:

means for transmitting a plurality of available products to said user, in response to receiving a design request from a user;

means for transmitting a plurality of available attributes to said user, in response to receiving a product selection from among said plurality of available products;

means for transmitting a plurality of available variables to said user, in response to receiving an attribute selection from among said plurality of available attributes; and

means for generating a graphical representation of said customized manufacturing order according to said product selection, said attribute selection and said variable selection, in response to a receiving a variable selection from among said plurality of available variables.

21. The program for coordinating a plurality of local and remote manufacturers according to claim 20, said program further comprising:

means for calculating a cost estimate for said customized manufacturing order according to said product selection, said attribute selection and said variable selection.

22. The program for coordinating a plurality of local and remote manufacturers according to claim 18, said program further comprising:

means for analyzing said customized manufacturing order for integrity;  
and

means for notifying said user with suggestions for adjusting said customized manufacturing order, in response to finding integrity flaws in said personalized design.

24. The program for coordinating a plurality of local and remote manufacturers according to claim 18, said program further comprising:

means for receiving a selection from said user from among said plurality of local bids and said plurality of remote bids;

means for transmitting an order request for said manufacturing order according to said selection from among said plurality of local bids and said plurality of remote bids.

25. The program for coordinating a plurality of local and remote manufacturers according to claim 24, said program further comprising:

means for completing a financial settlement from said user for said order request.

**IX. Evidence Appendix**

There is no evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 or any other evidence entered by the Examiner that is relied upon by Appellants in the appeal.



**X. Related Proceedings Appendix**

There are no decisions rendered by a court or the Board in any related appeals.